

APPROVED MINUTES

KITTERY TOWN COUNCIL

July 9, 2012

COUNCIL CHAMBERS

1. Call to Order

Chairperson Spiller called the meeting to order at 7:00 P.M.

2. Introductory

Chairperson Spiller read the introductory.

3. Pledge of Allegiance

Chairperson Spiller led those present in the Pledge of Allegiance.

4. Roll Call

Answering the roll were Chairperson Judith Spiller, Vice Chairperson George Dow, Councilors Frank Dennett, Gary Beers, Jeffrey Thomson and Leo Guy.

5. Agenda Amendment and Adoption –

COUNCILOR DENNETT MOVED THAT ITEM 12A BE MOVED TO BE ITEM 11F BECAUSE IT IS OLD BUSINESS, SECONDED BY COUNCILOR BEERS WITH ALL IN FAVOR.

The agenda was accepted as amended.

6. Executive Session - None

7. Acceptance of Previous Minutes – 6/18/12, 6/25/12 & 7/2/12

The minutes of 6/18/12, 6/25/12 & 7/2/12 were accepted as amended.

8. The Kittery Town Council moves to receive a report from the Wood Island Advisory Committee on the March 26, 2012 charge to it from the Town Council, “to address the technical, legal and all related factors, for the abatement question, a MOU, a restoration contract/agreement, and a concession/operating contract with WILSSA, composed of the Town Manager, Town Attorney, one or more Councilors and others with expertise in these areas”.

Chairperson Spiller indicated that the report concluded that it was difficult to determine the feasibility of the project. She continued she thought that WILSSA should be able to move ahead and that the main structure seemed to be in a condition where it could be restored. Chairperson Spiller stated that the Town Manager has moved ahead with discussions with

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Southern Maine Regional Planning relative to funding from the EPA. She noted they had identified hazardous materials and felt that the town had an obligation to address those.

8. Interviews for the Board of Appeals – None

9. PUBLIC HEARINGS -

a. (070212-1) The Kittery Town Council moves to hold a public hearing to ordain an ordinance to reconcile various capital program and special revenue accounts and transfer funds to the Town general fund unencumbered surplus.

Chairperson Spiller noted that notice of this public hearing was advertised in the Portsmouth Herald on June 29, 2012. Chairperson Spiller then opened the public hearing and no response being heard, closed the public hearing.

Town Manager Markel asked that Council postpone action on this item until he can get the final numbers as of June 30th.

COUNCILOR BEERS MOVED TO POSTPONE ACTION UNTIL JULY 23, 2012, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

b. (070212-2) The Kittery Town Council moves to hold a public hearing to ordain an ordinance to transfer certain dedicated reserve fund account balances to fiscal year 2013 revenue accounts.

Chairperson Spiller indicated that this public hearing was advertised in the Portsmouth Herald on June 29, 2012. Chairperson Spiller then opened the public hearing and no response being heard, closed the public hearing.

COUNCILOR BEERS MOVED IN ACCORDANCE WITH TITLE 30-A 3001, AND TOWN CHARTER SECTIONS 2.07(3), 2.14 AND 6.09(4), THAT THE TOWN OF KITTERY ORDAIN AN ORDINANCE BASED UPON WRITTEN REQUEST BY THE TOWN MANAGER TO TRANSFER DEDICATED RESERVE FUND ACCOUNT BALANCES FOR SPECIAL REVENUE ACCOUNT #275 IN THE AMOUNT OF \$38,634 TO REVENUE ACCOUNT #45035 RECREATION DEPARTMENT; AND SPECIAL REVENUE ACCOUNT #712 IN THE AMOUNT OF \$10,828 TO REVENUE ACCOUNT #45030, POLICE DEPARTMENT; FOR A TOTAL AMOUNT OF \$57,788.11 FOR FY'13 AS PRESENTED, SECONDED BY COUNCILOR DOW.

Councilor Dennett indicated that he thought the money should go back into unencumbered surplus and would be voting no.

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A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 5/1.

c. (070212-3) The Kittery Town Council moves to hold a public hearing to ordain an ordinance to transfer certain dedicated reserve fund account balances back to the general fund unencumbered surplus.

Chairperson Spiller noted that this public hearing was advertised in the Portsmouth Herald on June 29, 2012.

Town Manager Markel stated that after examination they found several accounts that were transferred from unencumbered surplus in the past in error. He continued they were now trying to correct that by sending those funds back.

COUNCILOR BEERS MOVED IN ACCORDANCE WITH TITLE 30-A, MRS 3011, AND TOWN CHARTER SECTIONS 2.07(3), 2.14, AND 6.09(4), THAT THE TOWN OF KITTERY HEREBY ORDAIN AN ORDINANCE BASED ON WRITTEN REQUEST BY THE TOWN MANAGER TO TRANSFER BY JOURNAL ENTRY DEDICATED RESERVE FUND ACCOUNT BALANCES FOR SPECIAL REVENUE ACCOUNTS #752, #753, #754 AND #757, MADE IN ERROR, TO RETURN SAID FUNDS TO THE MUNICIPAL GENERAL FUND #110, UNENCUMBERED SURPLUS, IN A TOTAL AMOUNT OF \$170,472.81, AS PRESENTED, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

10. DISCUSSION

a. Discussion by members of the public (three minutes per person) –

Robert Harris came to the podium and indicated that he had a problem with the Conservation Commission and Planning Board as they didn't own land and therefore did not think they should have a say in what happened with it. He continued he did not think either group listened to what the public thought.

b. Chairperson's response to public –

Chairperson Spiller responded that the Planning Board was working on the comprehensive plan to address some of those issues.

11. UNFINISHED BUSINESS –

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a. (062512-1) The Kittery Town Council moves to approve the fiscal year 2013 Capital Program in accordance with Town Charter Section 6.05 and Council Policy, as presented.

COUNCILOR DOW MOVED THAT THE KITTERY TOWN COUNCIL APPROVE THE FISCAL YEAR 2013 CAPITAL PROGRAM IN ACCORDANCE WITH TOWN CHARTER SECTION 6.05 AND COUNCIL POLICY, AS PRESENTED, SECONDED BY COUNCILOR BEERS.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

b. (062512-2) The Kittery Town Council moves to approve the fiscal year 2013 Capital Improvement Program budget in accordance with Town Charter Section 6.04 (2) and 6.06 (2) and Council Policy in the amount of \$1,208,976.

COUNCILOR DOW MOVED TO APPROVE THE FISCAL YEAR 2013 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ACCORDANCE WITH TOWN CHARTER SECTION 6.04(2) AND 6.06(2) AND COUNCIL POLICY IN THE AMOUNT OF \$1,208.976, SECONDED BY COUNCILOR BEERS.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

c. (062512-3) The Kittery Town Council moves to hereby ordain a carry forward balance from fiscal year 2011 in the amount of \$32,947 for the 2013 Adult Education Program, budget, in accordance with Town Charter Section 6.06 (2).

COUNCILOR BEERS MOVED TO HEREBY ORDAIN A CARRY FORWARD BALANCE FROM FISCAL YEAR 2011 IN THE AMOUNT OF \$32,947 FOR 2013 ADULT EDUCATION PROGRAM BUDGET, IN ACCORDANCE WITH TOWN CHARTER SECTION 6.06(2), AS PRESENTED, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

d. (062512-4) The Kittery Town Council moves to ordain adoption of the fiscal year 2013 Adult Education Program budget in the amount of \$138,482 in accordance with Town Charter Section 6/06 (2) and Title 20-A MRS 8603-A.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL HEREBY ORDAIN ADOPTION OF THE FISCAL YEAR 2013 ADULT EDUCATION PROGRAM BUDGET IN THE AMOUNT OF \$138,482 IN ACCORDANCE WITH

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TOWN CHARTER SECTION 6.06(2) AND TITLE 20-A MRS 8603-A, AS PRESENTED, SECONDED BY COUNCILOR GUY.

Councilor Beers indicated that this would need to be approved by the voters and should be put on the next warrant article for residents to vote on.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

e. (062512-5) The Kittery Town Council moves to ordain adoption of the fiscal year 2013 Municipal budget in the amount of \$11,616,347.

Town Manager Markel stated that the number needed to be amended as some items were taken out and the number to be voted on should be \$11,604,619. Councilor Beers asked if that number included Adult Education to which Town Manager Markel responded that it did. Councilor Beers stated the amount for Adult Ed, \$54,081 should also be taken out and \$11,550,610 should be the number to be voted on.

COUNCILOR BEERS MOVED THAT THE KITTERY TOWN COUNCIL HEREBY ORDAIN ADOPTION OF THE FISCAL YEAR 2013 MUNICIPAL BUDGET IN THE AMOUNT OF \$11,550,610, IN ACCORDANCE WITH TOWN CHARTER SECTION 6.06(2), SECONDED BY COUNCILOR DOW.

There was discussion about issues regarding the insurance account and the police department account.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

f. (070212-4) The Kittery Town Council moves to approve amending the Personnel Positions-Classifications Policy to include proposed job descriptions, as presented.

Councilor Dennett indicated that he thought that the positions needed to be rewritten and that he would be voting no. Councilor Dow asked if the lister/appraiser position was really necessary. Town Manager Markel indicated that they would like to have someone to step up when the current assessor retires. Councilor Thomson asked that the question be separated which Chairperson Spiller supported.

A VOTE WAS TAKEN ON THE SHORELAND OFFICER POSITION WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 5/1.

A VOTE WAS TAKEN ON THE LISTER/APPRaiser POSITION WITH COUNCILOR DOW, COUNCILOR BEERS, COUNCILOR DENNETT AND COUNCILOR THOMSON OPPOSED. MOTION DOES NOT CARRY 2/4.

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12. NEW BUSINESS

b. (070212-5) The Kittery Town Council moves to schedule a date to hold a public hearing in accordance with Section 6.09 (4) of the Kittery Town Charter to transfer appropriations between accounts and carry forward requests.

COUNCILOR DENNETT MOVED TO SCHEDULE TO HOLD A PUBLIC HEARING IN ACCORDANCE WITH SECTION 6.09(4) OF THE KITTEY TOWN CHARTER TO TRANSFER APPROPRIATIONS BETWEEN ACCOUNTS AND CARRY FORWARD REQUESTS FOR JULY 23, 2012, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

c. (070212-6) The Kittery Town Council moves to approve the disbursement warrants.

COUNCILOR THOMSON MOVED TO APPROVE THE DISBURSEMENT WARRANTS, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

d. (070212-7) The Kittery Town Council moves to approve a Memorandum of Understanding between the Town of Kittery and the Wood Island Life Saving Association (WILSSA) for reuse of the Wood Island Life Saving Station.

COUNCILOR BEERS MOVED TO APPROVE A MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF KITTEY AND THE WOOD ISLAND LIFE SAVING ASSOCIATION FOR REUSE OF THE WOOD ISLAND LIFE SAVING STATION, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH COUNCILOR DENNETT OPPOSED. MOTION PASSES 5/1.

e. (070212-8) The Kittery Town Council moves to approve an application from Tom Hibschan, 188 Brave Boat Harbor Road, Kittery Point, ME for a BYOB function at the Dance Hall, 7 Walker Street, Kittery should they need to move their wedding reception due to inclement weather.

COUNCILOR DOW MOVED TO APPROVE AN APPLICATION FROM TOM HIBSCHMAN, 188 BRAVE BOAT HARBOR ROAD, KITTEY POINT, ME FOR A BYOB FUNCTION AT THE DANCE HALL, 7 WALKER STREET, KITTEY SHOULD

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THEY NEED TO MOVE THEIR WEDDING RECEPTION DUE TO INCLEMENT WEATHER, SECONDED BY COUNCILOR GUY.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

f. (070212-9) The Kittery Town Council moves to accept a letter of resignation from Scott Lincoln for the Conservation Commission, Economic Development Committee and the Comprehensive Plan Update Commission.

COUNCILOR BEERS MOVED TO ACCEPT A LETTER OF RESIGNATION FROM SCOTT LINCOLN FOR THE CONSERVATION COMMISSION, ECONOMIC DEVELOPMENT COMMITTEE AND THE COMPREHENSIVE PLAN UPDATE COMMISSION, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

g. (070212-10) The Kittery Town Council moves to vote for a representative to serve on the MMA's Legislative Policy Committee from July 2012 – June 30, 2014.

Chairperson Spiller indicated that Perry Ellsworth had volunteered to be the representative.

COUNCILOR THOMSON MOVED TO VOTE FOR PERRY ELLSWORTH TO SERVE ON THE MMA'S LEGISLATIVE POLICY COMMITTEE FROM JULY 2012 – JUNE 30, 2013, SECONDED BY COUNCILOR DOW.

A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES 6/0.

h. The Kittery Town Council moves to authorize the Town Manager to sign the contract with Eco Maine as presented.

COUNCILOR BEERS MOVED TO AUTHORIZE THE TOWN MANAGER TO SIGN THE CONTRACT WITH ECO MAINE AS PRESENTED, SECONDED BY COUNCILOR DOW.

It was decided that a public hearing was going to need to be held on this item.

COUNCILOR BEERS MOVED TO POSTPONE THE MAIN MOTION AND SCHEDULE A PUBLIC HEARING FOR JULY 23, 2012, SECONDED BY COUNCILOR DOW.

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**A ROLL CALL VOTE WAS TAKEN WITH ALL IN FAVOR. MOTION PASSES
6/0.**

13. COUNCILOR ISSUES OR COMMENT

Councilor Thomson stated that the signs that were present at Shapleigh before construction began have not been returned.

Councilor Dow indicated that residents had been asking him about the stop sign at Philbrook and Moore. He continued that it could not be seen very clearly and people are blowing through the sign. He asked if the PD could look into the value of having the sign there.

14. COMMITTEE AND OTHER REPORTS

a. Communications from the Chairperson - None

b. Town Manager's Report

Town Manager Markel stated that he was continuing to work on collective bargaining. He continued there was currently a claim from a painters' union which was being looked into.

Town Manager Markel indicated that he had met with representatives from AMR and the Executive Director of York Hospital to continue to talk about having a regional ambulance service. He continued that he was going to meet with South Berwick as soon as the budget was completed.

Town Manager Markel stated that Councilor Thomson had been appointed the interim Chair of the KCC.

Town Manager Markel indicated that he had met with representatives to discuss their denial of their tax exempt status.

c. Committee Reports –

Councilor Thomson noted that FRC needed to be put to rest and that it was scheduled for sunset at the end of the calendar year. Chairperson Spiller indicated they could just let it expire.

15. ADJOURNMENT

COUNCILOR THOMSON MOVED TO ADJOURN, SECONDED BY COUNCILOR DOW WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:41 P.M.